

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSEPH NICHOLS,

No. C 13-2155 WHA (PR)

Plaintiff,

**ORDER DENYING MOTIONS FOR  
APPOINTMENT OF COUNSEL, FOR  
EXTENSION OF TIME, AND FOR  
LEAVE TO ADD A NEW CLAIM**

vs.

E. MEDINA, et al.,

Defendants.

(Docket Nos. 14, 15, 17)


Plaintiff, a prisoner at Salinas Valley State Prison and a frequent litigant in federal court, filed this pro se civil rights complaint under 42 U.S.C. 1983 challenging the conditions of his confinement. He was ordered to show cause why his application to proceed in forma pauperis should not be denied and this action should not be dismissed pursuant to 28 U.S.C. 1915(g) (in forma pauperis status will not be granted when plaintiff has had three or more prior in forma pauperis complaints dismissed for, among other things, failure to state a cognizable claim for relief). Plaintiff was informed that in the alternative, he could avoid dismissal by paying the full \$350.00 filing fee. He filed a late response to the order to show cause, but he was granted an extension of time and his response was considered. Because his response did not explain why any of the dismissals of his prior civil cases do not qualify as dismissals under Section 1915(g) nor show that he is in imminent danger, however, and because he had not paid the filing fee, the case was dismissed. The dismissal was without prejudice to filing his complaint in a new case in which he pays the filing fee.

Plaintiff has filed motions for appointment of counsel, for a further extension of time to pay the filing fee, and for leave to add a new claim to his complaint. As noted, plaintiff was

1 already granted an extension of time to respond to the order to show cause or pay the filing fee.  
2 He has not shown cause for waiting until after the case was dismissed to seek additional time.  
3 Moreover, as noted above, the dismissal does not preclude him from filing his complaint in a  
4 new action in which he pays the filing fee. He may also add his new claim to the complaint in  
5 that case. Lastly, appointment of counsel is denied because this case has been dismissed and  
6 closed. Plaintiff's motions (dkt. 14, 15, 17) are **DENIED**.

7 **IT IS SO ORDERED.**

8 Dated: October 10, 2013.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE